STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of KAYLIAH RODRIGUEZ, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

VANESSA MONTAGUE,

Respondent-Appellant,

and

PEDRO JUAREZ, a/k/a PADRO RODRIGUEZ,

Respondent.

UNPUBLISHED
May 28, 1999

No. 213944
Kent Circuit Court
Family Division
LC No. 96-000349 NA

Before: Sawyer, P.J., and Murphy and Talbot, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We reverse.

Respondent-appellant argues that service by publication was improper in this case. We agree. When termination of parental rights is sought, written notice of a termination hearing must be given to the noncustodial parent. MCL 712A.12; MSA 27.3178(598.12); MCR 5.920; MCR 5.921(B)(3); MCR 5.974(C). See *In re Gillespie*, 197 Mich App 440, 442; 496 NW2d 309 (1992). MCR 5.920(B)(4)(c) provides that if the trial court finds that service cannot be made because the whereabouts of a person to be summoned has not been determined after reasonable effort, the court may direct any manner of substituted service, including publication. MCL 712A.13; MSA 27.3178(598.13) permits service by publication if the trial court is satisfied that it is impracticable to

personally serve the notice of a termination proceeding. The alternative methods of service set forth in MCL 712A.13; MSA 27.3178(598.13) are sufficient to confer jurisdiction on the trial court. *In re Mayfield*, 198 Mich App 226, 231; 497 NW2d 578 (1993).

In this case, the trial court was presented with a motion for alternate service stating that personal service of a summons could not be reasonably made upon respondent-appellant because her address was unknown and she had refused to divulge her whereabouts. However, approximately three weeks before the termination hearing, a social worker mailed a letter to respondent-appellant at her last known address (her mother's house) indicating that he wanted to meet with her to discuss the treatment plan and the upcoming termination hearing. The letter was not returned as undeliverable. Respondent-appellant previously refused to tell the social worker where she was living, but it was suggested that she might be living with her mother. Although the social worker also mentioned to respondent-appellant three weeks before the hearing that there was a hearing or a petition requesting that her parental rights be terminated, he did not tell her the date of the hearing. The trial court found that notice by publication was proper and that reasonably diligent efforts had been made to locate respondent-appellant.

Under these circumstances, service by publication was improper because appellee failed to make reasonably diligent efforts to locate respondent-appellant and personally serve her with notice of the termination hearing.

A failure to provide notice of a hearing by personal service on a noncustodial parent in a termination proceeding as required by statute, MCL 712A.12; MSA 27.3178(598.12), is a jurisdictional defect that renders all proceedings in the trial court void. *In re Adair*, 191 Mich App 710, 713-714; 478 NW2d 667 (1991). While MCL 712A.13; MSA 27.3178(598.13) allows for alternative methods of service of process, it still requires that the trial court first determine that personal service is impracticable. *Id.*, 714. It was error for the trial court to allow notice by publication without first inquiring whether respondent-appellant could have been located at her last known address. The record indicates that the social worker had information that respondent-appellant may have been living at her mother's house and, in fact, sent a letter to her at that address three weeks before the termination hearing.[1] In light of this information, it would have been reasonable for appellee to attempt service at respondent-appellant's last known address to determine whether she still lived there, or whether anyone who lived there knew her address or whereabouts, before resorting to substituted service. Thus, the trial court erred in determining that reasonable efforts had been made to locate respondent-appellant when it allowed substituted service by publication and, therefore, proceeded without jurisdiction with regard to respondent-appellant.

Reversed.

/s/ David H. Sawyer
/s/ William B. Murphy
/s/ Michael J. Talbot

[1] The letter did not inform respondent-appellant of the time and place of the hearing.